

In accordance with Arkansas Code Ann § 25-15-204 the Arkansas Residential Building Contractors Committee finds that imminent peril to the public health, safety, or welfare requires adoption of these rules upon fewer than thirty (30) days' notice. The Committee further finds as follows:

1. While residential remodeling projects are not included within the scope of Act 950 of 1999, many local governments have enacted ordinances requiring a Residential License in order to perform residential remodeling.

2. Many individuals who work in the residential remodeling industry, while qualified through experience and training to perform residential remodeling work, do not have the appropriate experience and/or training to obtain a Residential Building classification.

3. These individuals have been placed in a situation where they can not obtain the full "Residential" license and therefore can not work in their given profession of residential remodeling.

4. The public (including both residential remodeling contractors and members of the public who would use their services) are being continually harmed by this inability for a segment of the construction industry to work.

5. The Committee finds that there exists imminent peril to the public health, safety, or welfare that requires adoption of this rule immediately. The effective date of this rule is September 26, 2001, the date of its adoption.

## EMERGENCY CHANGES TO THE RESIDENTIAL REGULATIONS

Adopted September 26, 2001

### 224-25-5-5. INACTIVE STATUS

A holder of a Residential license ~~Builder who is licensed~~ may choose to become inactive in the State of Arkansas at the time of any renewal. A license holder ~~Residential Builder~~ who is inactive may not bid on any contract, pull any permit, nor perform any work for which a licensed Residential Builder is required. A license holder ~~Residential Builder~~ who elects inactive status must pay all renewal fees, but is not required to submit financial information to the Committee. A license holder ~~Residential Builder~~ who is on inactive status may reactivate its license by making a request to the Committee and providing all necessary information required to renew as an active license holder ~~Residential Builder~~. A license holder ~~Residential Builder~~ may remain on inactive status for a period of time not to exceed six (6) consecutive years.

### 224-25-5-6. CLASSIFICATIONS & EXPERIENCE REQUIRED

(a) A contractor may be licensed in either of the following classifications: (1) Residential Building or (2) Residential Remodeler. A contractor holding a Residential Building class is authorized to work as a Residential Builder or a Residential Remodler. A contractor holding a Residential Remodeler class is not authorized to perform work requiring a Residential Building classification. Performing work outside of the appropriate classification may constitute a violation.

(b) Residential remodeling projects are not included within the definition of "Single Family Residence" as established by Ark. Code Ann. § 17-25-502(c). Under the provisions of Ark. Code Ann. § 17-25-501 et. seq. no license is required to perform residential remodeling. This regulation does not place any obligation upon residential remodelers to obtain a license.

However, the Committee acknowledges that many local governments have enacted ordinances requiring a Residential License in order to perform residential remodeling. Further, the Committee acknowledges that some individuals, while qualified through experience and training to perform residential remodeling work do not have the appropriate experience and/or training to obtain a Residential Building classification. In order to serve the public, the residential construction industry and local governments, the Committee has created the classification of “Residential Remodeler.” It is not a violation of Ark. Code Ann. § 17-25-501 et. seq. nor of these Regulations to perform residential remodeling without a license from the Committee. However, the classification of “Residential Remodeler” is available to be obtained by a residential remodeler if the residential remodeler desires the same and meets the qualifications for obtaining the classification.

(c) ~~(a)~~ Residential Building.

(1) In order to show appropriate experience, qualifications and ability to perform in Residential Building, the following must be provided:

(A) ~~(1)~~ Proof of four (4) years of appropriate verifiable experience in the Building industry (commercial or residential) must be shown.

(B) ~~(2)~~ Two verifiable references on the forms prescribed by the Committee.

(C) ~~(3)~~ Compliance with all other state laws and regulations reasonably connected to the performance of residential building.

(2) ~~In addition, the~~ The Committee will take into consideration past performance, complaints, or violations of the law or regulations of the Committee and of the Contractors Licensing Board.

(d) Residential Remodeler.

(1) In order to show appropriate experience, qualifications and ability to perform residential remodeling, the following must be provided:

(A) Proof of two (2) years of appropriate verifiable experience in the remodeling industry (commercial or residential) must be shown.

(B) Two verifiable references on the forms prescribed by the Committee.

(C) Compliance with all other state laws and regulations reasonably connected to the performance of residential remodeling.

(2) The Committee will take into consideration past performance, complaints, or violations of the law or regulations of the Committee and of the Contractors Licensing Board.

(e) (b) A contractor holding a license from the Arkansas Contractors Licensing Board with the classification(s) of Building (B) or Light Building (LB) is considered to be qualified to perform Residential Building. However, a Residential Building class must be requested in writing prior to performing the work.

#### **224-25-5-7. EXAMINATION REQUIRED**

Unless exempted by the provisions of Ark. Code Ann. § 17-25-509, no person or entity shall be licensed ~~as a Residential Builder~~ by the Committee unless the individual, or a qualifying party for an entity, has passed the written examination required by the Committee.

#### **224-25-5-10. COMPLAINTS & INVESTIGATIONS**

(a) The purpose of the complaints procedure is to effectively deal with issues affecting the licensure of ~~Residential Builders~~ licensees. The complaints procedure is not intended to function as a dispute resolution process or a code enforcement process. Any complaint registered with the Committee of alleged violations must be submitted in writing with proper information to identify job site, owner if possible, any name and phone numbers of

individuals and any other information that may tend to be useful in the investigation. The Complainant must furnish his/their name, address and phone number in order to obtain any other information that may be necessary for proper investigation. A written response will be made to a Complainant when investigation is closed.

(b) The Committee may delegate to the administrator/investigator the authority to obtain ~~Residential—Builder~~ licensee compliance as may be necessary. The administrator/investigator will conduct all investigations in such a manner that would be complimentary to the Licensing Law for Residential Builders.

#### **224-25-5-11. HEARINGS & APPEALS**

(c) The Committee shall have the power to revoke or suspend the ~~Residential Builder's~~ license of any licensee ~~Residential Builder~~ who:

(3) Is guilty of gross negligence, incompetence, or misconduct in the conduct of the ~~residential builder's~~ licensee's business.

#### **224-25-5-13. DEFINITIONS**

(e) Residential Remodeling: Any construction on a single-family residence involving structural changes, improvements, repairs or additions.

## **RESIDENTIAL BUILDERS REGULATIONS**

**Revised 9/26/01**

### **224-25-5-1. ISSUANCE OF LICENSE**

(a) All Residential Builders licenses will be issued under the name and address listed on the front of the application form. The use of any other name may constitute a violation. It is the responsibility of the Residential Builder to inform the Committee in writing of any name, address, ownership or any other change relating to said license within 15 days of such change.

(b) All applications for a Residential Builders licenses in the State of Arkansas must be filed in one of five categories; (1) individual, (2) partnership, (3) corporation, (4) limited liability company or (5) limited liability partnership. Each application must be supported by a qualifying party, who has satisfactorily completed such examination as may be required by the Committee, prior to being issued a license to engage in Residential Building in the State of Arkansas. Anyone failing to pass such examination may be reexamined at any regular examination period, upon payment of proper fee. Should the qualifying party (business and law or trade) leave a licensed entity, written notice shall be given within fifteen (15) days to the Committee. The notice shall state the name and position of individual leaving and the name and position of the individual who will replace the departing qualifier. The replacement qualifier must be fully qualified within thirty (30) days of the departure of the previous qualifier. Any license not renewed within two years of expiration shall not be renewed.

### **224-25-5-2. LICENSE EXPIRATION & RENEWAL**

(a) Expiration. All licenses to engage in the business of Residential Building in the State of Arkansas shall expire at midnight of the date of its expiration.

(b) Renewal.

(1) Renewal notices will be mailed approximately 60 days prior to the expiration of a license. However, it shall be the responsibility of the holder of the Residential Builders License

to renew said license. Failure to receive a renewal notice shall not excuse the failure to timely renew. A renewal application will be considered timely filed if received by the Committee or post marked by the expiration date.

(2) Renewal applications received by the Committee prior to the expiration date of the license shall be accompanied by a renewal fee of \$50.00 and the licensee may continue to use the license until the next meeting of the Committee following the expiration date of the license.

(3) Renewal applications received within thirty (30) days after the expiration of the license shall be accompanied by a \$100.00 renewal fee. UPON THE RECEIPT OF THE APPLICATION the license shall be deemed to be reinstated until the Committee has met and acted upon the renewal. The reinstatement of a license **does not** reinstate the license for the time period between the expiration of the license and the receipt of the application by the Committee.

(4) Any renewal application received more than thirty (30) days after the expiration of the license shall be accompanied by a \$100.00 fee and may be reviewed by the Committee at its next available meeting. The applicant shall not have a valid license until said application is approved by the Committee. A license may be renewed up until two (2) years after its expiration date. Any license expired two (2) years or more shall not be renewed.

(5) Any renewal application not meeting the requirements of the Committee at its' initial review, but being placed in an "improve status" will constitute an extension of the existing license until the next available Committee meeting, at which time the license will expire if a new license is not issued.

### **224-25-5-3. LICENSE APPLICATIONS**

Any new application not complete within ninety (90) days after original receipt in our office will become invalid. Any new application not passing the Committee's review will be considered invalid after ninety (90) days from the date of its original review. During the ninety (90) day period, the applicant may have the opportunity to make corrections or improvements needed in the application in order to warrant the issuance of a license. After an application becomes invalid a new application and fee must be submitted for consideration to obtain a Contractors License.

#### **224-25-5-4. LICENSE FEES**

(a) New Applications (Individuals or Entities Not Licensed by the Contractors Licensing Board). All new applications by individuals or entities not currently licensed by the Contractors Licensing Board must be accompanied by a One Hundred Dollar (\$100.00) application/licensing fee. This fee is non-refundable.

(b) New Applications (Individuals or Entities Currently Licensed by the Contractors Licensing Board). Individuals or entities currently licensed by the Contractors Licensing Board need not submit a application or licensing fee, however, they must submit an amended class request form and meet the requirements for Residential Builders in order to receive a Residential Builders class. Individuals or entities currently holding a Building or Light Building classification from the Contractors Licensing Board are deemed to have met all requirements to receive a Residential Builders class.

(c) Renewal Applications (Individuals or Entities Not Licensed by the Contractors Licensing Board). All renewal applications by individuals or entities not currently licensed by the Contractors Licensing Board must be accompanied by a Fifty Dollar (\$50.00) licensing fee, if the renewal application is timely filed (see Rule 224-25-5-2 for untimely filed renewal applications). This fee is non-refundable.



(d) Renewal Applications (Individuals or Entities Currently Licensed by the Contractors Licensing Board). Individuals or entities which have a Contractors License shall only pay the renewal fee for the Contractors License. No additional fee is required to renew the Residential Builders class.

#### **224-25-5-5. INACTIVE STATUS**

A holder of a Residential license may choose to become inactive in the State of Arkansas at the time of any renewal. A license holder who is inactive may not bid on any contract, pull any permit, nor perform any work for which a licensed Residential Builder is required. A license holder who elects inactive status must pay all renewal fees, but is not required to submit financial information to the Committee. A license holder who is on inactive status may reactivate its license by making a request to the Committee and providing all necessary information required to renew as an active license holder. A license holder may remain on inactive status for a period of time not to exceed six (6) consecutive years.

#### **224-25-5-6. EXPERIENCE REQUIRED**

(a) A contractor may be licensed in either of the following classifications: (1) Residential Building or (2) Residential Remodeler. A contractor holding a Residential Building class is authorized to work as a Residential Builder or a Residential Remodler. A contractor holding a Residential Remodeler class is not authorized to perform work requiring a Residential Building classification. Performing work outside of the appropriate classification may constitute a violation.

(b) Residential remodeling projects are not included within the definition of "Single Family Residence" as established by Ark. Code Ann. § 17-25-502(c). Under the provisions of Ark. Code Ann. § 17-25-501 et. seq. no license is required to perform residential remodeling. This regulation does not place any obligation upon residential remodelers to obtain a license.

However, the Committee acknowledges that many local governments have enacted ordinances requiring a Residential License in order to perform residential remodeling. Further, the Committee acknowledges that some individuals, while qualified through experience and training to perform residential remodeling work do not have the appropriate experience and/or training to obtain a Residential Building classification. In order to serve the public, the residential construction industry and local governments, the Committee has created the classification of “Residential Remodeler.” It is not a violation of Ark. Code Ann. § 17-25-501 et. seq. nor of these Regulations to perform residential remodeling without a license from the Committee. However, the classification of “Residential Remodeler” is available to be obtained by a residential remodeler if the residential remodeler desires the same and meets the qualifications for obtaining the classification.

(c) Residential Building.

(1) In order to show appropriate experience, qualifications and ability to perform in Residential Building, the following must be provided:

(A) Proof of four (4) years of appropriate verifiable experience in the Building industry (commercial or residential) must be shown.

(B) Two verifiable references on the forms prescribed by the Committee.

(C) Compliance with all other state laws and regulations reasonably connected to the performance of residential building.

(2) The Committee will take into consideration past performance, complaints, or violations of the law or regulations of the Committee and of the Contractors Licensing Board.

(d) Residential Remodeler.

(1) In order to show appropriate experience, qualifications and ability to perform residential remodeling, the following must be provided:

(A) Proof of two (2) years of appropriate verifiable experience in the remodeling industry (commercial or residential) must be shown.

(B) Two verifiable references on the forms prescribed by the Committee.

(C) Compliance with all other state laws and regulations reasonably connected to the performance of residential remodeling.

(2) The Committee will take into consideration past performance, complaints, or violations of the law or regulations of the Committee and of the Contractors Licensing Board.

(e) A contractor holding a license from the Arkansas Contractors Licensing Board with the classification(s) of Building (B) or Light Building (LB) is considered to be qualified to perform Residential Building. However, a Residential Building class must be requested in writing prior to performing the work.

#### **224-25-5-7. EXAMINATION REQUIRED**

Unless exempted by the provisions of Ark. Code Ann. § 17-25-509, no person or entity shall be licensed by the Committee unless the individual, or a qualifying party for an entity, has passed the written examination required by the Committee.

#### **224-25-5-8. EXPERIENCE REQUIRED TO QUALIFY FOR WAIVER OF WRITTEN EXAM (THIS RULE EXPIRED JULY 1, 2001)**

#### **224-25-5-9. FINANCIAL REQUIREMENTS**

(a) New Applications and Renewal applications:

(1) All new applications must be submitted with a compiled financial statement of the applicant, showing a positive net worth excluding the applicant's homestead and retirement accounts.

(2) All renewal applications must be submitted with a financial statement of the applicant, showing a positive net worth, excluding the applicant's homestead and retirement accounts.

(3) All financial statements must be submitted on the form approved by the Committee or in a similar format such as to provide the Committee with the information sufficient to adequately review the financial status of the applicant. All financial statements must be sworn to be true and correct. Corporations, Partnerships and Limited Liability Companies, etc., must file a business financial statement, not a personal financial statement.

(b)(1) If the Committee determines that the financial information provided by an applicant for a new or renewal license does not satisfy the financial requirements, the Committee may, at its option, deny the application or place the application in Improve status.

(2) A renewal applicant who is placed in Improve status will have its license extended thirty (30) days, pending further information being provided and/or changes being made by the applicant to resolve any difficulties. The license is effective only until the next regular meeting of the Committee and will expire at the next regular meeting unless further action is taken by the Committee.

(c) The Committee will also consider past performance, complaints and ability to perform in determining whether to issue a new or renewal license.

#### **224-25-5-10. COMPLAINTS & INVESTIGATIONS**

(a) The purpose of the complaints procedure is to effectively deal with issues affecting the licensure of licensees. The complaints procedure is not intended to function as a dispute resolution process or a code enforcement process. Any complaint registered with the Committee of alleged violations must be submitted in writing with proper information to identify job site, owner if possible, any name and phone numbers of individuals and any other

information that may tend to be useful in the investigation. The Complainant must furnish his/their name, address and phone number in order to obtain any other information that may be necessary for proper investigation. A written response will be made to a Complainant when investigation is closed.

(b) The Committee may delegate to the administrator/investigator the authority to obtain licensee compliance as may be necessary. The administrator/investigator will conduct all investigations in such a manner that would be complimentary to the Licensing Law for Residential Builders.

(c) Any application being denied because of a violation of Ark. Code Ann. § 17-25-101 through 17-25-513 may become invalid and a new application must be submitted.

#### **224-25-5-11. HEARINGS & APPEALS**

(a) All hearings and appeals of decisions of the Committee will be held in accordance with the Ark. Code Ann. § 17-25-501 et seq. and the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et. seq.

(b) Upon the finding of a violation of Ark. Code Ann. § 17-25-501 et seq. or these Rules and Regulations the Committee may modify, suspend or revoke residential building contractor's licenses and in addition, may levy civil penalties of not less than one hundred dollars (\$100) nor more than four hundred dollars (\$400) per day for the activity. The penalty shall not exceed three percent (3%) of the total project being performed by the Residential Builder.

(c) The Committee shall have the power to revoke or suspend the license of any licensee who:

(1) Is submits fraudulent or misleading information to the Committee to obtain a license; or

(2) Aids or abets any contractor, residential builder or person to violate the provisions of Ark. Code Ann. § 15-25-501 et. seq.; or

(3) Is guilty of gross negligence, incompetence, or misconduct in the conduct of the licensee's business.

(d) Appeals to the Contractors Licensing Board.

(1) Appeals from decisions of the Residential Building Contractors Committee to the Contractors Licensing Board shall be in writing and filed with the Contractors Licensing Board within 10 calendar days of the date the decision was served upon the respondent.

(2) A transcript of the original hearing(s) will be ordered and filed with the Contractors Licensing Board. A copy of the transcript will be provided to the respondent upon request. In the event the Contractors Licensing Board affirms or modifies, but does not reverse the decision of the Committee, the respondent will be responsible for the cost of the appeal. Said costs include, but are not limited to, the cost of the transcript. Said cost are in addition to any civil penalties or other sanction imposed.

(3) The Contractors Licensing Board will review the decision of the Committee in accordance with its Rules and Regulations.

#### **224-25-5-12. DEADLINES**

For any deadline that occurs on a Saturday, Sunday or holiday proclaimed by the State of Arkansas, the time to complete that event shall be extended until the next business day.

#### **224-25-5-13. DEFINITIONS**

(a) Ownership: When the terms **His** own or **Its** own property is used in the Residential Builder licensing law, it shall mean sole and exclusive right to sell or convey the property.

(b) Qualifying party: A person who has passed the appropriate examination. To act as a “qualifying party” a person must be either: (1) a sole owner; (2) a partner of the partnership; (3) an officer of the corporation who is actively engaged in the day to day activities of the company; (4) a member of the Limited Liability Company who is actively engaged in the day to day activities of the company; (5) a partner of the Limited Liability Partnership who is actively engaged in the day to day activities of the company; or (6) a full time employee.

(c) Full time employee: A person who is an actual employee of the business, not an independent contractor. The person must work, on average, 30 or more hours a week for the business (1500 hours per year), must not be paid as an independent contractor (not receive a “1099” for his earnings but receive a “W-2” for his earnings). A full time employee is not someone who is hired “job to job” as needed. Other factors to be considered in making this determination include, but are not limited to: whether the business pays for workman’s compensation insurance on the individual, whether the business pays payroll taxes on the individual, the amount of control the business has over the activities of the individual, the ownership of the tools used by the individual and, whether the individual maintains his own business separate from the business in question.

(d) Single family residence: Any project consisting of one (1) but not more than four (4) units of new construction for residential occupancy, when the cost of the project is twenty thousand dollars (\$20,000) or more. This definition does not apply to subcontractors of licensed residential building contractors or to remodeling operations.

(e) Residential Remodeling: Any construction on a single-family residence involving structural changes, improvements, repairs or additions.